



WHO FRAMEWORK CONVENTION  
ON TOBACCO CONTROL

**Conference of the Parties to the  
WHO Framework Convention  
on Tobacco Control**

Seventh session  
Delhi, India, 7–12 November 2016

**12 November 2016**

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**DECISION**

**FCTC/COP7(11) Implementation of Article 19 of the WHO FCTC: “Liability”**

The Conference of the Parties (COP),

Recalling the report by the Convention Secretariat on liability contained in document FCTC/COP/5/11;

Welcoming the final report by the expert group on liability that was established pursuant to the decision contained in document FCTC/COP/7/13;

Recognizing that scientific evidence has established that tobacco consumption and exposure to tobacco smoke causes death, disease and disability, and noting that Article 19 recognizes the possibility of Parties taking various types of action to promote tobacco control and international cooperation;

Recognizing that, as highlighted in the guiding principles of the WHO Framework Convention on Tobacco Control (WHO FCTC) (Article 4.5), “issues relating to liability as determined by each Party within its jurisdiction are an important part of comprehensive tobacco control” and that Article 19 presents the Parties with an option to hold the tobacco industry legally liable for the harm that is caused by the use of their products;

Recognizing also that legal systems may need to be adapted in order to enable tobacco industry liability to be pursued;

Recalling the expert group’s report contained in document FCTC/COP/6/8, which noted that few Parties have taken any legal measures against the tobacco industry for full or partial reimbursement of medical, social and other relevant costs related to tobacco use in their jurisdiction, and that Parties require additional guidance to advance implementation;

Noting that, as reported by the Convention Secretariat on the implementation of the WHO FCTC contained in document FCTC/COP/7/4, Article 19 is among the least implemented Articles of the WHO FCTC;

Noting also the “lack of clear information on the differing mechanisms of assistance and resources available and on how to access them as described by the working group on Sustainable measures to strengthen the implementation of the WHO FCTC contained in document FCTC/COP7/18;

1. ADOPTS the report of the expert group, including the toolkit, as a mechanism of assistance for those Parties that may require assistance in their implementation of Article 19;
2. ENCOURAGES Parties to consider options, including developing their legislation or liability procedures, as appropriate, and increasing their international cooperation in order to strengthen their implementation of Article 19;
3. REQUESTS the Convention Secretariat, in accordance with its mandate as described in FCTC/COP6(7):
  - (a) to make the toolkit available on the WHO FCTC information platform and keep it updated by incorporating relevant information and material, including information received from the Parties pursuant to their reporting obligations under the Convention;
  - (b) to develop a database of experts and institutions that can provide Parties, upon request, with technical assistance related to tobacco industry liability, create a digital platform for international cooperation, and make available and regularly update related resources;
  - (c) to prepare, maintain and make available to Parties a comprehensive list of the existing legal resources that may assist Parties in dealing with all forms of liability and other legal challenges where necessary;
4. FURTHER REQUESTS the Convention Secretariat:
  - (a) to explore options to mobilize resources, mechanisms of assistance and other forms of cooperation to ensure Parties have sufficient access to the information and expertise necessary to implement Article 19;
  - (b) monitor progress on Parties’ implementation of Article 19 through existing WHO FCTC reporting mechanisms;
  - (c) report on progress at the eighth session of the COP.

(Fifth plenary meeting, 12 November 2016)

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